

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

KIRK STUTES,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-08-207-M
)	
JASON TIPTON, et al.,)	
)	
Defendants.)	

ORDER

On February 23, 2010, United States Magistrate Judge Bana Roberts issued a Report and Recommendation in this action brought pursuant to 42 U.S.C. § 1983, alleging violation of plaintiff's civil rights by exposing him to cold weather conditions and retaliation by prison officials.


The Magistrate Judge recommended that defendants' motion for summary judgment be granted with respect to plaintiff's failure to administratively exhaust his procedural due process claim and retaliation claim as required by 42 U.S.C. § 1997e(a) and denied as to plaintiff's Eighth Amendment conditions of confinement claim. The parties were advised of their right to object to the Report and Recommendation by March 15, 2010. On March 15, 2010, defendants Figueroa, Crouse and Wright filed their objection.

Having carefully reviewed this matter de novo, the Court:

- (1) ADOPTS the Report and Recommendation issued by the Magistrate Judge on March 15, 2010;
- (2) GRANTS defendants' motion for summary judgment with respect to plaintiff's failure to administratively exhaust his procedural due process claim and retaliation claim as required by 42 U.S.C. § 1997e(a) [docket no. 27]; and
- (3) DENIES defendants' motion for summary judgment as to plaintiff's Eighth

Amendment conditions of confinement claim.

IT IS SO ORDERED this 31st day of March, 2010.


VICKI MILES-LaGRANGE
CHIEF UNITED STATES DISTRICT JUDGE